

Massachusetts OHV Advisory Committee Meeting Minutes

Meeting name	OHV Advisory Committee Meeting (6)		
Date	12-7-11	Time	12:00 PM – 3:00 PM
Location	Town Office Building, Sturbridge, MA	Meeting host	Stephanie Cooper, EEA
Attendees			
Stephanie Cooper (EEA)	Randy Toth	Ken Anderson	Lt. Merri Walker (OLE)
Priscilla Chapman	Briere, Gary (DCR)	Celia Riechel (EEA)	Chief Ernest Horn
Tad Ames	Dan D'Arcy	Chris Mossman	Sharon Jordan
Absentees			
Chris Baker (OLE)	Susan Hibbert	Chris Burton	
	Colleen McGuire	Peter Masiokas	

Synopsis of items discussed
<p>1. Discussion of protocols for meeting under Open Meeting Law</p> <p>The Open Meeting Law was created to ensure meetings of public bodies are open to the public to observe and appropriately transparent. The Attorney General's Office recently provided guidance (see http://www.mass.gov/ago/government-resources/open-meeting-law/attorney-generals-open-meeting-law-guide.html#Remote) that permits remote participation by members of public bodies under certain circumstances. This applies to members of public bodies only—there is no requirement that the public be able to call-in.</p> <p>Each public body may vote by simple majority to allow or prohibit remote participation. It may set rules for remote participation that its members deem appropriate, within the parameters set by the Attorney General's office. These parameters include: the physical presence of a quorum of members including the chair, and the location of the meeting in a publically-accessible venue. Additional limitations and requirements include permissible reasons for seeking to participate remotely.</p> <p>The committee discussed whether and under what conditions to permit remote participation by its members. It was decided to permit remote participation, but that at least seven members must be physically present for a meeting to take place. Everyone agreed on the importance of members being physically present, and expressed a desire to limit use of remote participation to emergencies and unforeseeable circumstances. Given that committee members travel significant</p>

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distance to attend meetings, it was discussed that geographical distance alone should not be a permissible reason for remote participation. It was proposed to limit the number of people participating per meeting to two people, as well as encourage sending alternates to be physically present. Logistics of positively identifying the individual remotely participating were discussed, as were other potential abuses of the privilege. There was also discussion on whether there should be an overall limitation on the number of times a committee member could participate remotely. The committee agreed to reconsider the issue in a year, and asked chair Stephanie Cooper to ensure that all members understood the committee's decision on remote participation.

2. **Education and enforcement update – Lt. Merri Walker, Office of Law Enforcement**

Lt. Walker discussed the progress of OHV registration since implementation of the new law. Below is a breakdown of OHVs registered in the past season:

	Resident	Non-resident	Total
ATV total	16,578	2,033	18,611
Four-wheel	12,525	1,464	13,989
Three-wheel	92	12	104
Trail bike	3,470	513	3,983
Mini bike	42	3	45
Other	449	41	490
Snowmobile	14,164	1,170	15,334
Total, all OHV registrations	30,742	3,203	33,945

This represents an increase in the number of snowmobiles registered from 2010, which is probably due to increased enforcement rather than an actual increase in snowmobile use. ATVs show a decline, but other states have seen similar declines in ATV use in recent years.

A committee member requested stats on the number of agricultural and forestry registration exemptions people have applied for. An application for exemption is available online. OLE enforces the requirement for registration based upon use: if an exempt vehicle is being used for recreation, the operator will be issued a ticket. Exempted vehicles do not get decals indicating that they are exempt.

The group discussed the visibility of required registration decals, noting some difficulty in seeing them on OHVs. Some suggested returning to license plates.

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The group discussed some of the difficulties in interpreting specifics of the law, including the prohibition on operation of vehicles within 150 feet of a house. Areas of uncertainty included whether operating within 150 feet of a neighbor's house, but on one's own property, is permissible, and whether there is an exception for loading and unloading a vehicle.

Discussion of the accident reporting procedure. There is uncertainty about how many accidents go unreported, and the Department of Public Health's requirement that accidents be reported to OLE. Most local police departments notify OLE of accidents involving OHVs, but there is no mandate to do so. There is no comprehensive database on accidents involving OHVs. Limited information is available by searching incident reports.

Lt. Walker discussed the education efforts made by OLE to date, and reviewed the two hour safety course and proctored exam given to children and youth OHV riders under the age of 18. Parents are actively participating in the courses and asking questions.

Attendance has not been high, and some scheduled courses were cancelled due to low demand. OLE has a limited staff and must balance providing sufficient opportunities for the public to take the course with attending to their other duties. The Massachusetts ATV Association, ATV Safety Institute, or similar organizations could provide online course material and offer courses, as long as they follow the established criteria, request and receive approval by OLE to do so. None have requested to do the training to date, so OLE remains the only source for training and education. This is an opportunity for the OHV community to take a larger role. There is a need for more qualified instructors, and the rider community is a natural resource for them. However, only OLE can offer the course and exam. Training trainers also takes time. OLE can and does train local police departments to ride OHVs safely, as well as to enforce OHV laws. Any law enforcement officer may enforce OHV law; they are not required to have special training.

Discussion of whether summaries of the training and laws should be made available online, or whether this will discourage people from going to the training. Because of the complexity of the law, there is concern that incomplete or inaccurate information would circulate in the community. A safety handbook will be available online; a paper copy will be given to riders with their registration, as well as being available at dealers.

Committee members suggest they help OLE develop an FAQ sheet.

3. Enforcement update – Chief Ernest Horn

Local police departments often do not prioritize enforcement of OHV laws because they tend to view vehicle issues that aren't on the roads as outside of their primary focus. They face financial and staffing constraints. Training

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requires overtime costs, which can strain budgets. Local police departments are mandated to respond to 911 calls, making it challenging for them to commit officers to chasing people in the woods. Generally, they contact the Environmental Police to take care of OHV issues. Most local police departments would like to see more Environmental Police officers, and more funding dedicated to OHV enforcement. There is some education of PDs that still needs to happen, as not all officers know about the new laws.

Discussion of potential ways to pay for and conduct training for local PDs, as well as equip them to enforce OHV laws. The Massachusetts Municipal Police Institute may be able to offer training. Law enforcement trust accounts cannot be appropriated or redirected to general fund accounts, and are spent according to the discretion of the police chief. They could potentially be expanded by statute to help keep PDs equipped with OHVs for enforcement. This could also serve as an incentive to more strictly enforce OHV laws.

Discussion of whether revenue from OHV citations issued soon after enforcement began that were directed to the general fund could be easily reclaimed and directed to the appropriate OHV fund account. This may present a difficulty. There is also a discrepancy between citations issued and payments actually received.

4. DCR trail conditions – Gary Briere, DCR

Gary Briere summarized the free permit process that was instituted again this past season at Pittsfield State Forest. Under this process, DCR issues up to 50 permits per day to users (the limit was never reached this year). This allowed DCR to gather a lot of useful information on the rider community and its needs. A survey was used at October Mountain State Forest, as well as data from rangers on the trails. Rider numbers were down significantly from last year. In Pittsfield SF, there were just 347 total users this year, down from over 600 last year. 53% of these were Massachusetts residents. At October Mountain, there were about 400 total riders, 38% of which were Massachusetts residents, and 62% from CT, NY, and RI.

There was a drop in ridership throughout New England. There are several potential causes: bad weather (many areas were temporarily closed from Hurricane Irene), deteriorated trail conditions, or simply that people are cutting back on discretionary expenditures. The group discussed whether DCR's user numbers are accurate, or if they underestimate the number of local users who access public lands through unofficial points. DCR's rangers patrol the trails in an effort to increase contact with users, including with those who may not enter through the official access points.

The permit process at Pittsfield SF allowed for better communication and was also a customer service opportunity. Riders who had registered were called ahead of time if trails were going to be closed for storms, and then called again

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when they were re-opened.

The committee discussed trails conditions and opportunities for assisting DCR in maintenance work. All trails require maintenance, but motor vehicle trails face greater impacts per user, and present a particular pattern of wear that requires more maintenance, often necessitating the use of heavier equipment.

Engagement from the OHV committee to help with maintenance would be welcome. While not all jobs can be done with volunteers—especially those involving earth moving equipment or wetlands—there is always work that can be done on smaller scales. DCR's volunteer policy has been challenging to work with because it must balance the need for high quality work with volunteer skills and safety concerns. There is also a need to balance the desires of specific user groups with ecological resource requirements; DCR's mandate includes both. The agency anticipates issuing an updated volunteer policy this year.

5. Recreational Trails Program – Ken Anderson

The Recreational Trails Program (RTP) provides funds to states to develop and maintain recreational trails and facilities. It is administered by the Federal Highway Administration, paid for by a gas tax. It can be used for motorized vehicle trails. The OHV community could seek funds from the program to pair with the OHV Fund in order to acquire new land and build new OHV trails.

Committee members were encouraged to express support for the program to the federal delegation, as the federal budget process proceeds.

6. OHV Fund update

Brief discussion of the OHV fund. Slightly less revenue was generated from registration fees and citations than originally forecasted. Discussion of whether the amount of funds going to OLE should be set at a specific amount rather than by review of specific programmatic needs.

The committee discussed whether it would be better to wait until there is enough money in the fund to make a major purchase of new land or development of a new trail, which could take a number of years, or spend funds now in an effort to accomplish visible improvement in an existing trail. Decision to support funding a small trail improvement on a portion of an existing DCR trail.

7. Miscellaneous

Brief discussion of the Statewide Comprehensive Outdoor Recreation Plan (SCORP) process. The public was welcomed to offer input through a survey and public outreach meetings this fall.

OLE would be happy to provide an outreach and educational presence if the OHV community has a major event.

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Mrs. Kearney, the mother of the child who was killed in an OHV accident, has expressed an interest in speaking to the committee. Stephanie Cooper has spoken with her and noted that Mrs. Kearney seems interested in making a positive contribution to safety in the community. The committee discussed the potential of Mrs. Kearney attending the next meeting and in general, the value of a voice of the child safety community, whose appointed representatives have not regularly attended committee meetings. Stephanie Cooper and Lt. Walker will meet with her prior to the next meeting and invite her to speak for a limited time.

Next steps/action items

1. EEA – Communicate with absent members re: remote participation guidelines.
2. EEA - Member list and dates. Members who have not been attending should be replaced.
3. OLE - Statistics on who has applied for exemptions (ag, forestry, etc) to the requirement to register OHV
4. OLE - Develop OHV FAQ sheet
5. DCR – Select trail section for potential use of OHV funds to improve as showpiece OHV Fund; present to committee.
6. Explore whether the Massachusetts Municipal Police Institute could offer training.
7. More information on law enforcement trust accounts, and whether they could be expanded by statute to help keep PDs equipped with OHVs for enforcement.

Previous meeting date	September 21, 2011
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Next meeting date	March 7, 2012 11:00am – 3:00pm
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Next meeting location	Westborough, MA
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